THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

MACMA No.747 of 2006

Between

P. Gopal Reddy

V

V. Ganesh and another

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Judgment:

1) The claimants filed this appeal under Section 173 of

the Motor Vehicles Act, dissatisfied with the compensation awarded by the Tribunal in OP No.1187 of 2003 in its order dated 7-7-2005 for the injuries sustained in the accident that occurred on 4-2-2003.

2) The facts in nutshell are that on 4-2-2003 at about 13.30 hours the appellant along with others were proceedings in an Auto bearing No. APA 13U 9154 from Vikarabad to Nawabpet side and when their auto reached the outskirts of Ekmamidi village, the auto driver drove it at fast speed and in a rash and negligent manner, and that he was unable to control the speed and turned turtle, on account of which, the claimant along with other passengers received serious injuries. Hence, he filed the above O.P. claiming compensation of Rs.1,50,000/- for the injuries sustained in the accident.

Before the Tribunal the claimant examined himself as P.W.1 and also doctor as P.W.2 and marked nine documents. On the other hand, the 1st respondent was set ex-parte, the 2nd respondent therein marked Ex.B.1 xerox copy of the insurance policy and that no oral evidence was let in by the insurance company.

3) The Tribunal on consideration of the evidence held that the claimant sustained injuries on account of rash and negligent driving of the auto driver and granted compensation of Rs.46,000/.

4) The Tribunal considering the evidence of P.W.1 and also another injured in another claim petition, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the auto. Though a suggestion was made to the claimants that the auto was over loaded on account of which the driver lost control resulting in taking place of the accident, the same was denied and no contra evidence was adduced by the respondents therein. According to the claimant, he was

aged about 32 years at the time of accident. Though the doctor P.W.2 assessed the disability at 10% he admitted in his evidence that he did not mention in Ex.A.6 that there was limping so also about 10% disability sustained by the claimant. Ex.A.4 discharge-cum-follow up card shows that the claimant was admitted on 4-2-2003 and discharged on 19-2-2003 and that surgery was done on 10-2-2003 for closed communited fracture of both bones right leg and interlocking nail was done. Considering the nature of injuries sustained by the claimant, that the claimant requires one more surgery for removal of implants, amount of Rs.5000/- awarded towards pain and suffering is modified instead an amount of Rs.10,000/- is granted and an additional amount of Rs.5000/- is granted towards medical expenses. The amount of Rs.35,000/- granted towards loss of earnings stands affirmed. The other amounts granted towards attendant charges at Rs.1000/-, Rs.2000/- towards lacerated wound to his left scalp, Rs.2000/- towards extra nourishment, Rs.1000/- towards transport to hospital are on lower side and hence they are modified granting a total amount of Rs.15,000/- as compensation on those counts. Thus, in all the claimant is entitled for a compensation of Rs.65000/- and that the enhanced amount shall carry interest @ 7% per annum.

Subject to above modifications, the appeal stands allowed in part. No costs.

GM, J

Dt; 17-2-2010
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Dated